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be particularly interested in Chapters VI. and VII., which deal with the origin of property and contract.

The philosophic principle which runs through all the author's investigations is the conflict between the State and the clan; this, he says, is "the key to the internal politics of the Middle Ages." He seems at times to exaggerate this struggle and to postulate with too much freedom the survival of the clan. It is difficult, for example, to follow him when he refers to the "moots of the clan" during and after the ninth century (pp. 125, 132), though he evidently means the local popular courts. Nor can we agree with him that the gild and the monastery are artificial forms of the clan (p. 309).

In Chapter III. he seems to ascribe too much influence to the feudal element in developing the royal power, especially in France, and too little influence to the Romanizing legists.

But we feel more inclined to praise than to criticise this volume. Mr. Jenks has, indeed, produced a book of great merit, which displays wide learning in the comparative history of the legal systems of the Middle Ages. In a work so broad in view and covering so much ground we must expect to find some errors of fact, like the statement that Hugh the Great was king of the Western Franks (pp. 85, 87); but such slips do not seem to be frequent. The treatise as a whole may be warmly recommended to students of legal and constitutional history. No other English book contains so good and comprehensive an account of early Teutonic systems of law.

C. G.

THE SCIENCE OF LAW AND LAWMAKING. By R. Floyd Clarke. New York: The Macmillan Co. 1898. pp. xvi, 451.

Mr. Clarke's book should be welcomed as affording to the general reader an introduction to the study of law suggestive of the beauty and interest of its problems, and as giving for the first time a comprehensive discussion of the problem of codification. The book is not a complete or exhaustive treatise on "the science of law," a subject whose scope is not within such moderate limits; but the writer has attempted merely to outline in brief the source of law, its relation to other sciences, and its gradual development into case and code law. A bird's-eye view of the English law as it exists to-day in its various branches, with an explanation of the technical terms used, puts the general reader in a position to pursue intelligently the problem of "codification *versus* the case law system," — a question that is strangely ignored by many of our better citizens.

In advocating the cause of the case law system, the real substance of the book, the writer has accomplished his purpose well. The division of the chapters into so many headings adds little to the clearness or literary merit of the work, but the argument is, on the whole, coherent and convincing. By applying the principles of the decisions in the case law and the rules of the principal codes now in existence to one branch of law, contracts in restraint of trade, he demonstrates, by a comparison of the results, that a code can be brief only at the expense of accomplishing justice, or justice-giving only at the expense of all practical brevity. One great advantage of the case law system, as Mr. Clarke points out, is that a code, like a statute, must be followed according to the strict construction of the language used, while in a decided case all that is material is the

rule of law laid down and the reasons of justice with which it is supported. Case law deals with actual phenomena, the logical method of induction pursued in other sciences, while a code is merely a human abstraction to be applied to future cases, and as such either is unable to keep pace with economic growth and change of conditions, or else fetters the law in its true development. "Codification, presupposing infinite knowledge, is a dream."

S. H.

MEMOIRS AND LETTERS OF JAMES KENT. By William Kent. Boston: Little, Brown, & Co. 1898. pp. viii, 341.

The life of Chancellor Kent demands as of right the services of a historian; and to giving an account of his life the great-grandson of the Chancellor has volunteered. This story is told in the main through the medium of letters, to which coherence is given by the comments of the biographer. The task of dealing with the subject in this manner is no easy one; and one is compelled to admit that the task is here performed with indifferent success. The comments which are intended to throw the proper light and shade upon the letters run the risk at times of being perfunctory and didactic. The author's analysis, however, towards the end of the book becomes more spontaneous than in the earlier part, and gives more form to the whole. The selection of the letters is good. They are well arranged, are strongly individual, and show the strong personality of the man.

Kent's life was the resultant of the conflicting forces of legal energy, public spirit, literary assiduity, and a yearning for bucolic home life. His family life was simple and kindly. Through all his public career he writes of a secret longing to live apart with his family on some farm in the country; but this dream was not realized until old age was overtaking him. His zeal in the pursuit of law and learning was indomitable; yet he found time to indulge his passion for the *Belles Lettres* of ancient and modern times, and in his letters he reveals his taste in the literature he admired. His letters are also types of his own mastery of diction, the severe simplicity of style which bears testimony to his study of the ancient classics, especially the Latin. Work never killed the sensibilities in him, and yet a certain dryness, an eye to the practical matters of country life, at times crops out in his writing, as if by mistake. In one letter, for instance, after describing a thunder-storm in language full of vivid imagination he ends by saying: "It lasted about half an hour, and the lightning destroyed a barn full of wheat on the river against Newburgh."

The letters have revealed the man not only in his private life but also in his political life as supporter of the waning Federalist cause. The author's pretensions, however, are modest; and in dealing with political events he consistently maintains the point of view of Kent's private life. He makes no attempt to describe the Chancellor's great contribution to our law and Constitution; that contribution is still unwritten, and is known only by his works, his decisions and his Commentaries.

J. G. P.